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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ADAM BROOKS,

Case No: 2:14-cv-374-GMN-GWF

Plaintiff,

vs.

CITY OF HENDERSON;  
CHIEF JAMES WHITE, individually  
and in his capacity as Interim Chief of  
the Henderson Police Department;  
OFFICER JOSEPH W. EBERT,  
individually; DOES 1 through 10,  
inclusive,

Defendants.

**STIPULATION AND ORDER TO STAY DISCOVERY PENDING COURT**

**RULING ON MOTION TO DISMISS**

COMES NOW, the Plaintiff, ADAM BROOKS, by and through their counsel, CAL J. POTTER, III, ESQ. and C. J. POTTER, IV, ESQ. of POTTER LAW OFFICES; and Defendants, CITY OF HENDERSON, CHIEF JAMES WHITE, and OFFICER JOSEPH W. EBERT (collectively "Defendants"), by and through their counsel NANCY D. SAVAGE, ESQ. of the HENDERSON CITY ATTORNEY'S OFFICE and hereby submit this Stipulation and Order to Stay Discovery Pending Court Ruling on the Motion to Dismiss [docs. 17].

WHEREAS the Defendants filed a Motion to Dismiss [doc. 8] on July 10, 2014, which was opposed [doc. 18] on July 28, 2014, and replied [doc. 19] to on August 7, 2014;

WHEREAS, according to the Court's Order [doc. 20] the parties must file a Discovery Plan and Proposed Scheduling Order on or before October 6, 2014;

WHEREAS, the parties conducted a Fed. R. Civ. P. 26(f) conference on October 3, 2014;

WHEREAS the Court has not ruled on the pending Motion;

The undersigned, CAL J. POTTER, III, ESQ., counsel for Plaintiff and NANCY D. SAVAGE, ESQ., counsel for Defendants, hereby stipulate and agree to stay all discovery and the filing of a Discovery Plan and Proposed Scheduling Order until the Court rules on the pending Motion to Dismiss, should the case remain active.

This request is not made for the purposes of delay, but to avoid having to engage in costly discovery in a matter that may ultimately be dismissed by the Court. The purpose of Federal Rule of Civil Procedure 12(b)(6) is to enable defendants to challenge the legal sufficiency of a complaint without subjecting themselves to discovery. Rutman Wine Co. v. E & J Gallo Winery, 829 F.2d 729, 738 (9th Cir. 1987).

APPROVED AS TO FORM AND CONTENT.

DATED this 3<sup>rd</sup> day of October, 2014.

DATED this 6<sup>th</sup> day of October, 2014.

POTTER LAW OFFICES

CITY OF HENDERSON

By /s/ Cal J. Potter, III, Esq.  
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By /s/ Nancy D. Savage, Esq.  
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Las Vegas, Nevada 89101  
*Attorney for Defendants*

**ORDER**

IT IS SO ORDERED.

DATED \_\_\_\_\_

UNITED STATES MAGISTRATE JUDGE \_\_\_\_\_